

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

IVEN LEE CALDWELL,

Plaintiff,

-vs-

Case No. 15-CV-448

**OSHKOSH POLICE DEPARTMENT,
OFFICER J. JOHANNES,
BYRON BARTOW, and
RICK PHILLIPS,**

Defendants.

DECISION AND ORDER

On April 15, 2015, two plaintiffs, Iven Lee Caldwell and Benjamin John Biese, filed a *pro se* complaint under 42 U.S.C. § 1983, along with a motion to appoint counsel. On April 24, 2015, they each filed a motion for leave to proceed *in forma pauperis*, but neither submitted a certified copy of his prisoner trust account statement for the six months preceding the filing of the complaint.

On May 15, 2015, the Court received a Notice of Voluntary Dismissal from plaintiff Benjamin John Biese, and he was terminated as a plaintiff. However, on May 19, 2015, Biese filed a motion to rejoin the case. He offers no explanation for why he voluntarily dismissed his case or why he seeks to rejoin it, other than that he received a letter from Caldwell.

This is not the first case in which Biese has voluntarily dismissed and then changed his mind. The Court does not encourage such behavior and will not indulge Biese's whims. The Court will deny Biese's motion to rejoin the case and terminate his motion for leave to proceed *in forma pauperis*. If Biese wishes to bring claims related to the complaint in this case, he must file a separate complaint and begin a new action.

If plaintiff Caldwell wants to proceed with this case, he must submit a certified copy of his prison trust account statement for the six months prior to filing his complaint, which is necessary for the Court to calculate the plaintiff's initial partial filing fee. *See* 28 U.S.C. § 1915A.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT the Benjamin John Biese's motion to rejoin case (ECF No. 14) is **DENIED**.

IT IS FURTHER ORDERED that Benjamin John Biese's motion for leave to proceed in forma pauperis (ECF No. 11) is **TERMINATED**.

IT IS FURTHER ORDERED that plaintiff Iven Lee Caldwell shall submit a certified copy of his prisoner trust account statement for the six months prior to the filing of his complaint on or before **Friday, June 26, 2015**. Failure to submit a trust account statement by that date will result in the dismissal of this case for failure to prosecute.

IT IS FURTHER ORDERED that a copy of this order be sent to the warden of the institution where Caldwell is confined.

Dated at Milwaukee, Wisconsin, this 1st day of June, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge